

P19661

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

Application 28376 Permit 19661 License           

**ORDER APPROVING CHANGES TO POINT OF DIVERSION AND AMENDING  
THE PERMIT**

**WHEREAS:**

1. Permit 19661 was issued to Elliot Roberts on October 15, 1985 and subsequently assigned to Randolph P. Rhodes on December 1, 1993.
2. Permittee was in litigation, Case No. 355792, before the Superior Court of San Mateo County. Judgement No. 390319 approved the change to the permittee's points of diversion to the San Gregorio Creek Stream System and directed permittee to obtain approval for the change from State Water Resources Control Board (SWRCB).
3. The Superior Court of San Mateo County Judgement referred to the source for the new point of diversion as unnamed stream to be also known as North Branch Bogess Creek.
4. A petition to change point of diversion has been filed with the SWRCB on July 14, 1997 and the SWRCB has determined that good cause for such change has been shown.
5. The SWRCB has determined that the petition for changes does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Condition 1 of the permit shall be amended as follows:
  - 1) Unnamed Stream (also known as North Branch Bogess Creek) tributary to Bogess Creek thence San Gregorio Creek thence Pacific Ocean
  - 2) Unnamed Stream tributary to Unnamed Stream (also known as North Branch Bogess Creek) thence Bogess Creek thence San Gregorio Creek thence Pacific Ocean
2. Condition 2 of the permit shall be amended as follows:
  - 1) Point of Diversion-(Diversion 143c) - North 650 feet from SW corner of projected Section 33, being within the SW¼ of SW¼ of projected Section 33, T6S, R4W, MDB&M
  - 2) Point of Diversion and Rediversion-(Diversion 147) - South 54° West, 475 feet from NE corner of projected Section 5, being within the NE¼ of NE¼ of projected Section 5, T7S, R4W, MDB&M.


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Permit 19661

License \_\_\_\_\_

3. Rights under this permit are, and shall be, specifically subject to existing rights determined by the San Gregorio Creek Adjudication, Superior Court, San Mateo County, No. 355792 insofar as said adjudicated rights are maintained. (0000023)

Dated: MARCH 18 1998

*for*   
Edward C. Anton, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

Application 28376 Permit 19661 License                     

**ORDER APPROVING A  
NEW DEVELOPMENT SCHEDULE**

**WHEREAS:**

1. Permit 19661 was issued to Elliot Roberts on October 15, 1985 pursuant to Application 28376.
2. Permit 19661 was subsequently assigned to Randolph P. Rhodes.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

**NOW, THEREFORE, IT IS ORDERED THAT:**

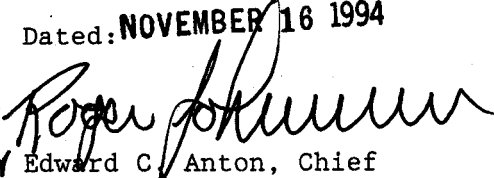
1. Condition 7 of the permit be amended to read:

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE

December 31, 2000

(0000009)

Dated: **NOVEMBER 16 1994**

*for*   
Edward C. Anton, Chief  
Division of Water Rights

STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19661Application 28376 of Elliot Roberts  
3155 Bear Gulch Road, Woodside, California 94062filed on January 24, 1985, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

## 1. Source:

- 1) Bogess Creek
- 2) Unnamed Stream

## Tributary to:

San Gregorio Creek

Bogess Creek thence

San Gregorio Creek

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
1) North 55° West, 4,900 feet from SE corner of projected Section 33	NW <sup>1</sup> / <sub>4</sub> of SW <sup>1</sup> / <sub>4</sub>	33	6S	4W	MD
Point of Diversion and Rediversion					
2) South 540 West, 475 feet from NE corner of projected Section 5	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	5	7S	4W	MD

County of San Mateo

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Fire Protection						
Recreation						
Stockwatering	Reservoir No. 147 within NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	5	7S	4W	MD	
Irrigation	SE <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	32	6S	4W	MD	7

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 10 acre-feet per annum to be collected from November 1 of each year to March 31 of the succeeding year. 0000005 ✓

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. 0000005 ✓

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second. 0000005 ✓

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. 0000006 ✓

7. Complete application of the water to the authorized use shall be made by December 1, 1989. 0000009 ✓

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. 0000010 ✓

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. 0000011 ✓

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. 0000012 ✓

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. 0000013 ✓

12. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion on Bogess Creek. 0000012 ✓

13. Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released. Permittee shall submit plans and specifications of the outlet pipe or the alternative to the Chief of the Division of Water Rights for approval within 6 months of the date upon which the Board issues notice that an outlet is required. Permittee shall furnish evidence which substantiates that an outlet or alternative has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. ✓

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**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **OCTOBER 15 1985**

**STATE WATER RESOURCES CONTROL BOARD**

*Raymond Wash*

Chief, Division of Water Rights